Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009

Message Text

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ORIGIN OES-07

INFO OCT-01 AF-10 EUR-12 IO-13 ISO-00 EPA-04 EB-07
HEW-06 L-03 /063 R

DRAFTED BY EPA:A-106:ECOTSWORTH:OES/ENP/EN:PJGLASOE:EF
APPROVED BY OES/ENP/EN:HSPIELMAN
EPA:PBRUNNER
FDA:BHOFFMAN (SUBS)
CPSC:CCHURCH (SUBS)
EUR/RPE:DSWARTZ (SUBS)
EUR/SOV:WVEALE (SUBS)
EB/STA:GWHITE (SUBS)
----------220123Z 126081 /66
R 211412Z MAY 77
FM SECSTATE WASHDC
TO ALL OECD CAPITALS
USMISSION NATO
USMISSION GENEVA
AMEMBASSY MOSCOW
AMEMBASSY NAIROBI

UNCLAS STATE 117433

E.O. 11652: NA

TAGS: SENV, OECD, SW, UR, KE

SUBJECT: PROPOSED U.S. REGULATION OF CHLOROFLUOROCARBONS

REF: (A) STATE 113645, (B) STATE 12922, (C) STATE
264149 (76)

1. THIS CABLE SUPPLEMENTS REFTEL (A) AND CALLS FOR ACTION
BY ADDRESSEE POSTS. THEY ARE REQUESTED TO PASS FOLLOWING
INFORMATION ON U.S. REGULATORY ACTIONS AGAINST CHLORO-
FLUOROCARBONS TO APPROPRIATE HOST GOVERNMENT OR INTERNA-
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TIONAL ORGANIZATION OFFICIAL(S). COPIES OF THE MAY 13
FEDERAL REGISTER ENTRIES CONTAINING THE PROPOSED REGULA-
TIONS ARE BEING SENT DIRECTLY BY EPA TO ALL ATTENDEES AT
THE RECENT INTERNATIONAL MEETING ON THE REGULATION OF
CHLOROFLUOROCARBON EMISSIONS (SEE SEPARATE AIRGRAM). 50
COPIES ARE ALSO BEING SENT TO U.S. MISSION OECD FOR
TRANSMITTAL TO THE ENVIRONMENT DIRECTORATE. MISSION IS

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REQUESTED TO DECIDE WITH DIRECTORATE OFFICIALS WHETHER OR NOT A FORMAL "NOTIFICATION" SHOULD BE PREPARED IN THIS CASE IN VIEW OF THE WIDE DISSEMINATION OF THE INFORMATION VIA OTHER CHANNELS. IF THEY WISH TO CARRY OUT A NOTIFICATION, REFTEL A, THE FOLLOWING MATERIAL, AND THE FEDERAL REGISTER COPIES SHOULD PROVIDE SUFFICIENT INFORMATION TO MAKE THAT POSSIBLE. LASTLY, WE ARE SENDING U.S. MISSION OECD AND EMBASSY MOSCOW COPIES OF THE ENVIRONMENTAL IMPACT STATEMENT PREPARED IN CONJUNCTION WITH THE PROPOSED REGS. MISSION SHOULD ASK OECD TO DISTRIBUTE COPIES TO CHEMICALS GROUP MEMBERS ALONG WITH THE PROPOSED REGS. MOSCOW SHOULD DELIVER TO APPROPRIATE SOVIET OFFICIAL.

2. BEGIN TEXT: THE U.S. FOOD AND DRUG ADMINISTRATION (FDA), ENVIRONMENTAL PROTECTION AGENCY (EPA), AND CONSUMER PRODUCT SAFETY COMMISSION (CPSC) HAVE JOINTLY ANNOUNCED PROPOSAL OF REGULATIONS TO PHASE OUT NONESSENTIAL AEROSOL USES OF CHLOROFLUOROCARBONS (CFCS). TWO SEPARATE BUT COORDINATED REGULATIONS PROPOSED BY FDA AND EPA APPEARED IN MAY 13 ISSUE OF FEDERAL REGISTER. A 60-DAY PUBLIC COMMENT PERIOD AND AN EPA HEARING, BEGINNING AUGUST 1, WILL PRECEDE DEVELOPMENT AND PROMULGATION OF THE FINAL REGULATIONS. ADDITIONALLY, FDA WILL ACCEPT COMMENTS FOR 30 DAYS FOLLOWING THE HEARING ON ANY NEW INFORMATION WHICH IS BROUGHT OUT IN THE HEARINGS.

3. REGULATIONS ARE PROPOSED BY FDA UNDER AUTHORITY OF FOOD, DRUG AND COSMETICS ACT (FDCA) AND BY EPA UNDER TOXIC SUBSTANCES CONTROL ACT (TSCA). CPSC HAS DETERMINED UNCLASSIFIED

THAT EPA'S ACTION UNDER TSCA RENDERS INDEPENDENT REGULATION BY CPSC UNNECESSARY AT THIS TIME.

4. COVERED BY THE PROPOSED PROGRESSIVE BAN ARE ALL FULLY HALOGENATED CHLOROFLUOROALKANES, INCLUDING F-11 AND F-12, CURRENTLY IN COMMERCIAL USE, AND POTENTIAL CHEMICALLY SIMILAR SUBSTITUTES. ONLY USE OF THESE COMPOUNDS AS AEROSOL PROPELLANTS, AND NOT RPT NOT AS THE ACTIVE INGREDIENT, IS AFFECTED. NONESSENTIAL USES SUBJECT TO THE REGULATIONS INCLUDE PERSONAL CARE PRODUCTS, HOUSEHOLD SPRAY PRODUCTS AND SOME INDUSTRIAL SPRAY USES. CURRENTLY EXEMPTED FROM THE PROPOSED REGULATIONS ARE ESSENTIAL MEDICAL AND INDUSTRIAL USES, E.G., INHALERS USED BY ASTHMATICS, CONTRACEPTIVE VAGINAL FOAMS, CYTOLOGY FIXATIVES FOR CANCER DIAGNOSIS, MERCAPTAN MINE WARNING DEVICE, PLASTIC MOLD RELEASE AGENTS, AND FLYING INSECT SPRAYS FOR CERTAIN USES. ALSO EXEMPTED ARE REGISTERED PESTICIDE PRODUCTS, ALTHOUGH MANUFACTURE OF CFCS FOR USE IN SUCH PRODUCTS WILL BE PHASED OUT.

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5. THE PROPOSED REGULATIONS WOULD EFFECT A GRADUAL PHASE-OUT. EPA'S REG WILL REQUIRE ALL BULK MANUFACTURING OF FULLY HALOGENATED CHLOROFLUOROALKANES FOR USE AS AEROSOL PROPELLANTS TO CEASE (EXCEPT AS RELATED TO ESSENTIAL USES) OCTOBER 15, 1978. THE FDA REG WILL PROHIBIT MANU-FACTURE OR PACKAGING OF FINISHED FOOD, DRUGS, COSMETICS AND DEVICES CONTAINING FULLY HALOGENATED CHLOROFLUORO-ALKANES AS PROPELLANTS EFFECTIVE DECEMBER 15, 1978. THIS IS THE SAME DATE AS THE BAN ON PROCESSING OF CFCS FOR OTHER AEROSOL PROPELLANT USES, CALLED FOR IN THE EPA REGULATION. APRIL 15, 1979 IS THE DATE BOTH PROPOSED REGULATIONS SET FOR PROHIBITION OF DISTRIBUTION INTO COMMERCE OF FINISHED PRODUCTS.

6. IMPORT OF FULLY HALOGENATED CHLOROFLUOROALKANES -- IN BULK OR AS PROPELLANTS IN FINISHED PRODUCTS -- WOULD UNCLASSIFIED

CEASE ON DECEMBER 15, 1978 UNDER THE PROPOSED REGS. ALTHOUGH UNDER TSCA "MANUFACTURE" IS DEFINED TO INCLUDE IMPORTATION, THIS DATE (RATHER THAN OCTOBER 15) WAS CHOSEN IN ORDER NOT TO DISCRIMINATE AGAINST FOREIGN PRODUCERS (AND U.S. IMPORTERS).

7. EXPORTS WILL BE SUBJECT TO THE SAME CONTROLS AND TIMETABLE AS IN THE EPA REGULATION FOR DOMESTIC PHASEOUT. THE AUTHORITY IS SECTION 12(A)2 OF TSCA, WHICH PERMITS EXCEPTIONAL CONTROL OF EXPORTS IN CASES OF RISK TO HEALTH AND ENVIRONMENT OF U.S. POPULATION BY USE OF U.S. EXPORTS OF A SUBSTANCE ABROAD.

8. IN ASSOCIATED ACTIONS, IN LATE APRIL FDA ISSUED A REGULATION REQUIRING A WARNING LABEL ON ALL FOOD, DRUG AND COSMETIC CONTAINERS USING CFC PROPELLANTS, BEGINNING OCTOBER 31, 1977. BASED ON AN EARLIER EPA ACTION, ALL PESTICIDE AEROSOLS CONTAINING CFC PROPELLANTS PRODUCED AFTER APRIL 15 OF THIS YEAR MUST STATE THEIR CFC CONTENT ON THE LABEL. LASTLY, CPSC HAS ALSO PROPOSED A LABELLING REGULATION FOR PRODUCTS UNDER ITS JURISDICTION AS AN INTERIM MEASURE, UNTIL A BAN MAY BECOME EFFECTIVE.

9. POSSIBLE ADDITIONAL REGULATIONS, TO COVER OTHER USES OF CFCS, SUCH AS REFRIGERANTS AND AIR CONDITIONING, WILL BE CONSIDERED DURING A SECOND STAGE OF REGULATORY PROCESS. TARGET DATE FOR INITIAL PUBLICATION OF SUCH PROPOSALS IS JUNE 1978.

10. BASED ON DETAILED ECONOMIC STUDIES CARRIED OUT BY EPA, REGULATION OF NONESSENTIAL USES IS PROJECTED TO COST

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INDUSTRY 169-267 MILLION DOLLARS ANNUALLY OVER 4 YEARS
AFTER BAN BEGINS. CONSUMERS ARE EXPECTED TO SAVE 58-240
MILLION DOLLARS PER YEAR BECAUSE OF CHEAPER ALTERNATIVES.
IT IS SIGNIFICANT THAT A NOTICEABLE DECREASE IN AMOUNT OF
PRODUCTS ON U.S. MARKET UTILIZING CFCS AS PROPELLANTS
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HAS ALREADY OCCURRED OVER PAST TWO YEARS. END OF
TEXT. CHRISTOPHER

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
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Control Number: n/a
Copy: SINGLE
Sent Date: 21-May-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01-Jan-1960 12:00:00 am
Disposition Event:
Disposition History: n/a
Disposition Reason:
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Executive Order: N/A
Errors: N/A
Expiration:
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Litigation History:
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Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
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